City of Lafayette
DRAFT Minutes
Planning Commission Meeting

Teleconference Meeting *- Watch on the City of Lafayette's YouTube Channel at http://bit.ly/LoveLafayetteYouTube. Submit public comments to planner@lovelafayette.org before or during the meeting.*

March 17, 2025
7:00 p.m.

CALL TO ORDER

Chair LaBonge called the Planning Commission meeting to order at 7:00 p.m. and read the meeting protocols into the record.

ROLL CALL:

Present: Chair Stephen LaBonge; Vice Chair Roger Deming; Commissioners Carl Di Giorgio, Gary Huisingh, Anna Radonich, and Kristina Sturm

Absent/Excused: Commissioner Greg Mason

Staff Present: Planning and Building Director Greg Wolff, Senior Planner Arly Cassidy

ADOPTION OF AGENDA:

A. March 17, 2025 Meeting Agenda
Recommendation**:** Adopt the Agenda

Planning and Building Director Greg Wolff announced an inconsistency in two agendas published; one being the on-line agenda and the second being a PDF within the on-line agenda. The inconsistency relates to Item C, the project DR18-24; SAJ Development at 1001 Oak Hill Road. This will be called as a separate item on tonight's agenda so it is not confusing whether or not it is on the Consent Calendar. Staff's recommendation that the Commission continue that item to a certain date certain of April 7th.

Commissioner Huisingh moved to adopt the agenda, as amended, to move DR 18-24; SAJ Development identified from the Consent Calendar as Item C to be treated as a separate item, without discussion. Commissioner Radonich seconded the motion, which carried unanimously by the following vote: 6-0-1 (Ayes: Deming, Di Giorgio, Huisingh, Radonich, Sturm, and LaBonge; Noes: None; Absent: Mason).

PUBLIC COMMENTS: None

CONSENT CALENDAR:

Chair LaBonge removed Item C, and there were none and no public comments or other requests for removal.

A. February 18, 2025, Draft Meeting Minutes

Recommendation: Approve the Minutes

B. 2024 Annual Progress Report
Project Planner: Anna Tolle, atolle@lovelafayette.org, (925) 299-3205
Recommendation: Approve and direct staff to provide the Annual Progress Report (APR) to the City Council and then submit to the California Department of Housing & Community Development (HCD) and the Office of Planning and Research (OPR).

Commissioner Huisingh moved to adopt the Consent Calendar Items A and B. Commissioner Radonich seconded the motion, which carried unanimously by the following vote: 6-0-1 (Ayes: Deming, Di Giorgio, Huisingh, Radonich, Sturm, and LaBonge; Noes: None; Absent: Mason).

Item Removed from the Consent Calendar:

C. DR18-24 SAJ Development (Owner), SRB-60 Zoning: Request for 1) Design Review, 2) Category II Tree Permit, 3) Grading Permit, and 4) Major Subdivision to redevelop four parcels containing three existing office/retail buildings (3-story 4,700 sq ft; 2-story 2,725 sq ft; 1-story 1,645 sq ft) and construct a 7-story (5 residential stories over 2-story parking podium) mixed use development totaling 172,399 sq. ft. in area with 90 for-sale units (79 market rate, 5 very low income, and 6 moderate income units), including 2,000 sq. ft. commercial area, 183 subterranean parking spaces and 52 bicycle spaces, and removing approximately 23 trees at 1001, 1007, 1009, and unaddressed parcel Oak Hill Rd, APNs 243-030-033-1, 243-030-020-8, 243-030-041-4, and 243-030-038-0.
Environmental Review: Categorically exempt from California Environmental Quality Act (CEQA) under Section 15332, Class 32: In-Fill Development Project.
Project Planner: Jean Eisberg, jeisberg@lovelafayette.org, (925) 284-1976
Recommendation: Continued the item to April 7, 2025, without discussion.

Commissioner Huisingh moved to continue Item C to the April 7, 2025 Planning Commission meeting. Commissioner Sturm seconded the motion, which carried unanimously by the following vote: 6-0-1 (Ayes: Deming, Di Giorgio, Huisingh, Radonich, Sturm, and LaBonge; Noes: None; Absent: Mason).

STUDY SESSION: None.

CONTINUED PUBLIC HEARINGS: None.

NEW PUBLIC HEARINGS:

A. TR9707, HDP27-24, GR16-24, TP48-24 Oak Hill Place LLC (Owner), R-10 Zoning: Request for 1) Major Subdivision; 2) Hillside Development Permit; 3) Grading Permit; and 4) Tree Permit to subdivide and grade a 3.19-acre lot and construct 15 detached single-family homes with 5 attached ADUs, with a max height greater than 17', removing 50 protected trees, in the Hillside Overlay District at 3600 Oak Hill Rd, APN 244-190-028.
Environmental Review: Categorically exempt from California Environmental Quality Act (CEQA) under Section 15332, In-Fill Development Projects.
Project Planner: Arly Cassidy, acassidy@lovelafayette.org, (925) 299-3242
Recommendation: Provide feedback to the applicant on the project. No formal action is proposed at this meeting.

Senior Planner Arly Cassidy gave the staff report and overview of the request for 1) Major Subdivision; 2) Hillside Development Permit; 3) Grading Permit; and 4) Tree Permit to subdivide and grade a 3.19-acre lot and construct 15 detached single-family homes with 5 attached ADUs, with a max height greater than 17', removing 50 protected trees, in the Hillside Overlay District at 3600 Oak Hill Road.

In the staff report, Ms. Cassidy stated she posed questions for the Planning Commission (PC) which she requested specific feedback regarding outstanding issues with the project, which she described. Staff's recommendation is that the PC review the proposal and provide feedback to the applicant. No formal action will be taken tonight regarding approval or denial; however, the PC may continue the item to a date certain.

Chair LaBonge asked and confirmed this meeting counts towards the five meetings, and the applicant will be giving a presentation.

Commissioner Huisingh referred to the staff report's indication that the site is balanced; however, there is an off-haul of 2,400 square feet. He asked if they could have a balanced site and lose the 2,400 square feet on site without having it hauled off. He also noted that most adobes in this area are historic properties and asked how the adobe got demolished.

Ms. Cassidy stated there were two homes originally on the project site and permits submitted to demolish them separately at separate times. The adobe application came in about two years ago, was processed by a different planner and she was not aware of its historic value. There is one commenter that mentioned that. He sent additional emails for inclusion that said he has reached out to the Lafayette Historic Society which did not seem interested in pursuing the building, but this is all the information she has at this time.

Commissioner Huisingh said Page 4 of the staff report talks about triggers for review and it mentions the ADU permit. He asked why this would be a trigger for review if it is a ministerial permit over-the-counter.

Ms. Cassidy said this is a mistake in the staff report. It would be processed under the building permit only. Staff wanted to call out that they exist here but there is no planning application. They are Class B ADUs which are ministerial or a building permit-only process.

Regarding Parcel D for treating stormwater, Commissioner Huisingh asked why the applicant would not treat it in the bio-retention swale now since they are treating the stormwater of the rest of the subdivision. He understands Parcel D is not being developed now but it is part of the subdivision. Public Works suggests they put it on Parcel D in the future, but there is not room in Parcel D so the only place there will be room to do this is part of the 3.9 acres.

Ms. Cassidy stated she believes this was Engineering's original point—that all of the entire parcel should be processed. The applicant has asked to pull out Parcel D from the processing. Because the remainder parcel with the crosses has absolutely no development on it the idea is to preserve it as an open space area with no proposed impervious surface and they do not want to include the area under the stormwater plan to segment it out as much as possible.

Engineering was willing to agree to this with the condition that Parcel D be processed separately so if any impervious surface were ever proposed on Parcel D, it would need to be processed. She believes the idea is the remainder, the 2.3 acres that are developed would be under an HOA whereas Parcel D would not be.

Commissioner Huisingh asked and confirmed that the slope easement as written now does not preclude it from being developed.

Commissioner Huisingh said the City has a rural emphasis in the City and a Complete Streets policy with Vision Zero as adopted by the Council. He asked whether Complete Streets policies are typically just for public streets or he asked if they apply to private streets.

Ms. Cassidy said she does not believe Lafayette has a Complete Streets policy. They have a Vision Zero policy which has a goal of zero pedestrian deaths due to vehicle collisions. Typically, City policies would also only apply to public streets and not private streets.

Commissioner Huisingh referred to the discrepancy on the tree count throughout the staff report. He recommended there be a total listed in the plan sheets where the table is which could then corroborate what is in the staff report and to clarify things.

Regarding General Plan policy of density being trumped by bonus density law, Commissioner Huisingh asked if that also goes for all the other General Plan policies that were listed in the staff report such as Policy LU-1.3 relating to privacy.

Ms. Cassidy said the project must be found conforming with the General Plan to qualify for a density bonus. Only the density listed in the General Plan is trumped by density bonus law.

Commissioner Huisingh asked if the PC can, as the approval body, opt to use the new tree ordinance or, based upon when the applicant submitted the application they must use the old ordinance.

Ms. Cassidy said the application came in under the old ordinance. Staff and the Planning Department have developed a policy allowing for Category I tree permits. These are stand-alone and no other development to be withdrawn if they were submitted under the old ordinance and re-applied for under the new one in order to get the often more favorable calculation for replacement trees.

Staff has not applied this to Category 2 tree permits because they involve other development. So, in order for a similar process to take place they would need the entire permit to be withdrawn and re-applied for. This is something staff has been requested by the applicant to do, but that policy has not come into place or decided on. It would not be something that could be segmented out such that just the tree permit could be withdrawn and re-applied for. It is part of the application because it is a Category 2.

Commissioner Huisingh said therefore, the entire application would have to be withdrawn which would have other ramifications if it were resubmitted. Ms. Cassidy confirmed.

Commissioner Di Giorgio asked staff to help him understand about the ADUs. He read that two ADUs did not have exterior access but had to be entered in through the main unit and they are downstairs. He asked why they would be called ADUs and not JADUs.

Ms. Cassidy explained that JADU has a specific limitation where it can be no larger than 500 square feet, have minimal requirements as to the kitchen provisions, counter square footage, etc. An ADU can be as small as a JADU but does not have to be. The reason these are labeled as ADUs and not JADUs is because a JADU can only be created by the actual owner of the property because the owner must live in the main home or the JADU. So, the developer who plans to sell all units cannot create a JADU. They must create an ADU which can be 425 square feet.

Vice Chair Deming asked if the applicant provided any response as to why they did not want to build the sidewalk. Ms. Cassidy stated she believes there are some engineering issues, there would be perhaps a few trees removed, the grade slips away at the edge of the road so some small retaining walls might be required, and in the end, cost is one of the main concerns.

Vice Chair Deming referred to the affordable unit proposed. It was supposed to be roughly as equal to a market unit, but it seemed from the description that was not the case. He asked if there is any objective criteria around that or he asked if that is just a broad description.

Ms. Cassidy stated the bullet point she provided in the staff report is a summary of what the code states but it is not cutting out too many words. The project proposes two units which are distinguishable from the rest of the project. Most of these units are close to 2,000 square feet, have more bedrooms, and are two stories. Units 11 and 14 are different, so one could argue that Unit 11 is not a stand-alone, separate unit. The materials proposed are very similar. The layout of one story is very similar to a single floor from other units and they are well incorporated into the project. It is true Unit 11 is the farthest to the south and sticks out and so one could argue it has more traffic noise exposure, but she would argue that is not terribly obvious and separate. It is not often a corner by itself type of thing, so this is something to make a determination on, as it is a discretionary description and does not have specific objective standards involved.

Vice Chair Deming referred to the north additional retaining fence given comments received and asked and confirmed it relates to being sensitive to the adjacent neighbors' concerns about privacy and view impacts from the proposal.

Vice Chair Deming referred to the height waiver and asked if it was related to the fact of the sloped parcel being developed or is it because of taller buildings to get more room.

Ms. Cassidy said most of the height waivers have to do where they are measuring from. For example, Unit 15 has a steep slope down away from it on the east side and the City's height measurement is from the average of the lowest grade existing or proposed. So, in some cases the proposed grade has retaining walls or brings the elevation up a little bit but the existing grade is quite low. Or, in some cases it is the reverse but the applicant is often docked because of these grade issues because of the sloped parcels and the way the units are arranged. Most of the homes comply with the height and it gets into the grade issue that brings the overall height higher.

Vice Chair Deming said if they were on a flat plain he asked and confirmed the applicant would not necessarily need the height waivers. Lastly, staff said if they were going to allow for the tree removal to be updated to the new law the applicant would have to resubmit, but that they want to resubmit anyway. He asked why.

Ms. Cassidy said they are interested in being processed under the new tree protection ordinance and not specifically in re-submitting.

Chair LaBonge asked and confirmed with Ms. Cassidy that there will be private streets inside the development and an HOA. Chair LaBonge said he is trying to get clear how much on the sidewalk portion the City is asking versus telling on this. When he reads the General Plan and reasons to be in conformance it does not state the requirement for sidewalks. However, there are some that say "quality design" and this is urban development, an infill project, and the City talks a lot about walkability. In not needing a lot of parking, he asked how one would walk off the property and how much of it is a request versus a demand.

Ms. Cassidy responded that it is because the sidewalk was not part of the applicant's original proposal and it is a density bonus project. She does not believe the City can make the argument that the project as proposed gives harm or has an environmental concern and there is no policy in the City that expressly requires the sidewalk. So, it would have to be a request.

Commissioner Huisingh said if the PC were to request it there are unlimited waivers, if a reason for not wanting to do it is cost he asked if this could not be a concession and the developer has one concession. Ms. Cassidy said this is correct. Commissioner Huisingh said therefore, there is a strategy to not articulate the requested concession to see what comes out of the public hearings to pick the most expensive one, and Ms. Cassidy confirmed, stating staff requested, and the developer has agreed, to provide their requested incentive or concession before the next public hearing.

Commissioner Radonich asked how many residential units are on Oak Hill Road up beyond the project site. Ms. Cassidy stated she was unsure, stating she drove up to the site this morning and it is in the ballpark of 30 spaces before Orchard comes in from the right and North Thompson Road comes in from the left a little farther along. So, there are two other streets that come together and connect. Therefore, someone can drive out other directions by continuing to travel.

Commissioner Di Giorgio said he noticed that the walkway from the loop was described as mulch-only. He asked if this is a necessity for drainage or another reason. Ms. Cassidy said she believes the desire was to keep it has pervious surface. She clarified there is a concrete stairwell that would descend right adjacent to Unit 11 outdoor parking, come down a steeper section of slope, and then the mulch would continue along the existing ridgeline. There is a half visible dirt road along that ridgeline now which is where the mulch path would go after the concrete stair.

Commissioner Di Giorgio said he assumes there is no obligation to maintain the mulch as it degrades down, and he asked if it would be the responsibility of the HOA. Ms. Cassidy said yes; it is something staff could request for maintenance as it is part of the project. One could argue it is shown in the plans and therefore the plans must be maintained.

Chair LaBonge said when Commissioner Huisingh and Commissioner Radonich mentioned it not being part of the package now, he asked how it is a complete application if the concession has not been asked. Ms. Cassidy said this was a request from the applicant that staff granted to delay. They thought it would be helpful to understand where the PC's attentions were and goals for improvements.

Commissioner Sturm said when staff referred to the policy on re-submitting when it is just the tree permit she asked if it is a current policy that does not allow re-submittal of just the tree portion. Or, she asked if this is in review where the City may come up with another policy or would that policy stand.

Ms. Cassidy replied no other application has requested that a Category 2 tree permit application be withdrawn and submitted separately. It is something that only this applicant has requested. Right now, staff's approach is that it should be an entire package. It is something that has not been codified one way or the other and so there is room for adjustment, but this is what staff thinks would be best at this time.

Commissioner Sturm said if there were an undeveloped single family smaller lot in the future that was completely undeveloped and was being developed as a single-family home, she asked if there is a scenario where the PC would require improvements along the edge of the road similar to the sidewalk.

Mr. Wolff stated he thinks the City Engineer would ask that property owner to only improve their frontage even if there was a shoulder. He added that the PC will find circumstances where there are portions of sidewalk that do not connect, but as opportunities present, the next property owner in the future could do the same. So, unfortunately it is a piecemeal implementation of a longer-term public goal.

Commissioner Sturm asked if the design of the edge treatment for that road has to be specified in the Walkways Plan in order for the City to require it of the applicant or not.

Mr. Wolff said as implemented, albeit it be piecemeal, there would be consistency in the design approach so you would not have a mixture of different kinds of segments; just the timing of implementation. The City has generally settled on a more rural appearing walkway outside of the downtown. They are not poured concrete which is tooled with score joints and curb and gutter. They tend to be asphalt with an asphalt berm or curb that largely disappear aesthetically but do provide the pedestrian facility. To his knowledge, the Walkways Plan is a higher-level broad plan for where there should be connectivity pulling in from the neighborhoods to the downtown. He thinks the City Engineer has a very limited number of cross-sectional profiles and specifications for sidewalks and pathways.

Commissioner Sturm said when staff went through the questions they wanted input on, there is a lot going on here and they are dealing with the density bonus yet again. She asked if staff was able to go through and state the things which are requests and which are discretionary and the City can ask that they come into compliance with.

Ms. Cassidy said the tree ordinance is the only item where there are objective standards. The requirement under density bonus is that the project comply with the objective standards. So, the other three questions pertaining to the sidewalk, compliance with design guidelines, and the landscaping at Zone Zero are all a request for whether the PC is asking for those and not requiring them.

Commissioner Sturm referred to the Zone Zero landscaping and asked if this would become a requirement from the Fire Department.

Ms. Cassidy said it may become one but it is not one now. The Commission may have seen the response to the LA fires and the Governor issued a number of proclamations. One of them was a request that Cal Fire come up with Zone Zero requirements, specifically prohibiting vegetation in Zone Zero. This may apply only to the very high fire hazard severity zone which this project was in and is no longer in as of February 2025 map update. It is not high fire hazard severity zone and not a very high, so staff does not know if the Zone Zero no vegetation policy would apply to both of those zones or only very high. Again, it is not in place, has not been developed yet, and she thinks it is meant to come on line later this year. So, at this point she would call it a best practice.

Commissioner Sturm said if that were to come into effect and the landscaping directly around the residences was eliminated she asked if the PC would want to ask for more screening outside of that zone.

Ms. Cassidy said this is something that could be requested. The project itself is fairly well-screened from most angles. It is really the neighbors to the northeast corner that are most exposed which is partly due to slope. She pointed out in the staff report that all of the people that eventually live in this project will move into it with it already built as is so there will not be new development for them. Whatever is on the ground is what they are choosing to purchase. So, screening can always be negotiated. They will be part of an HOA and can decide if they want to redevelop their landscape plan. She thinks there will also be a fire safety plan that would be part of that discussion. But, it is something she would not be terribly worried about as far as screening between the units. They are pretty closely packed. In some cases, there is as few as four feet between units so she would not recommend any vegetative screening go in there. It is just how the project is designed and this is how the people who choose to live there will accept its design.

Chair LaBonge said if the tree portion is an objective standard and must be adhered to, he asked if this can be applied as a concession to waive it. Ms. Cassidy said she believes so. Chair LaBonge said likely the applicant will value between the trees and the sidewalk about which is the most expensive and he thinks the PC should have that as their first request as to what it is.

Chair LaBonge called upon the applicant for a presentation.

Lara Dutto, owner/architect/applicant, thanked staff for their comprehensive staff report and gave a PowerPoint presentation and background on her family growing up in town and said they live a mile away from the site. She displayed the memorial and began to help them organizationally. In 2023, they have been dealing with insecurities for a long time as to who owns the property, whether it would be able to stay, and it came on the market. She knows there is a housing shortage, said she cares deeply about the memorial, is an architect, and knows what she considers place identity and why people love to live here.

Anyone who lives in the project will get to walk to downtown and it is within the half-mile radius from BART so parking is not required but provided. She noted there is an easement for the memorial which is a remainder lot so she wanted there to be no controversy about that and it is staying. She then described how the design and site plan came to be, spoke of their work with the Fire Department and a fire code consultant and came up with the design as being the best emergency vehicle access, said they respected all setbacks around all neighbors, said they provided 51% open space, described the number of plan types to meet the missing middle, and renderings.

Commissioner Radonich thanked Ms. Dutto for her presentation. She asked and confirmed that the one image meant to show the perspective of the neighbor to the north is the top right, which she displayed. Ms. Dutto added that they staggered the retaining walls, pulled back 10 feet, have a small retaining wall at the fence line with a 6-foot fence. They moved back 10 feet allowing for a planter of evergreen trees and then you move another 5 feet to the setback which is where the homes sit.

Commissioner Radonich asked where the 6-foot fence is being proposed on top of the retaining wall. Ms. Dutto said she met with the neighbor and he would like to see what it might look like to see a 6-foot fence on top of the first retaining wall, which goes from 3 ½ feet to zero and they marked with green flags what a top of a 6-foot fence would look like for him. It is not shown here because this was done prior to her conversation with him and the pole work, but then displayed it. She noted the lot in that corner is very flat up at the top but the back corner dives down into the neighboring properties, so they must deal with this. The unit is within the height limit and the setback, and she added that there is an additional 5 inches to the setback.

Commissioner Huisingh disclosed that he met with the applicant to talk about the project and look at the plans, and Ms. Dutto stated she also disclosed this in writing.

Commissioner Huisingh asked if the applicant could put the houses on Lots 4 and 5 where the park is and put the park where 4 and 5 are.

Ms. Dutto said she spoke about how the plan evolved and there was this conscious effort to celebrate the tree in the sunny center and the whole notion of having a center to the development which was key to the siting, and it is quite a drop over there.

Commissioner Huisingh said related to the sidewalk, he asked if there would be less resistance to building a sidewalk if the cost was not so much to build it as proposed.

Ms. Dutto explained that no one wants to say pedestrian safety is too expensive and they would feel terrible if someone got hurt there. She thinks it is very important, but does not know how a project like this absorbs this because it is almost half of their impact fees when they looked into it. It can be done, but it feels like a big ask in proportion to the size of the project, which is small with small margins. But, they will do their best if asked.

Commissioner Huisingh said he understands this, and possibly they could come up with a way to provide access so people can get down and walk to the grocery stores within the half-mile radius without taking out the trees, without driving up the costs, and without filling in that natural swale. The last think most people want to see is a hardened sidewalk right behind the edge of the pavement, so he has some thoughts when the Commissioners comment.

Ms. Dutto responded said she thinks there is a way to do that pathway. Having met with the neighbors she has heard the story that it feels scary walking on that road. It is dark, a very dangerous intersection, and so she thinks there is a way to do it without taking down some key trees along that street which is very important for screening the development. To her, it wraps back around to the question about the tree ordinance which is something also she would like to speak to at some point.

Commissioner Sturm said she liked Ms. Dutto's explanation of how the design evolved and the values and priorities she incorporated into that. She has solved many problems and issues here and she feels like the last link is the pedestrian link to the larger context which has been thought about. So, she would like to see a solution to that and wonders if she looked at the mulch pathway line as primarily being for access for the development.

Ms. Dutto said they debated as a team to even include that path in the plans, but then had a stairway to nothing. They must get maintenance up there, do fire abatement, and there is a 13-foot wall there so the path is not a great answer for pedestrian access. It does not help the neighborhood in any way and is pretty steep. One solution is to make that permeable, but it is pretty steep.

Commissioner Sturm asked if Ms. Dutto looked at the Highlands as they have some access points down to the multi-purpose path that goes behind Lennar.

Ms. Dutto said no, but she can look at that. It is fair to say this is a missing link because they had not studied it until it was brought to their attention.

Commissioner Sturm referred to landscaping and said the two things that rose to the top for her based upon the questions staff asked them was about having the replacement vegetation be native species or a one-to-one replacement and then also doing some additional studies to ensure the trees to remain will survive with new water management. She asked Ms. Dutto to speak to those things.

Ms. Dutto said they have struggled as a team to figure out these tree ordinances. The old tree ordinance is so complicated that they have had misguidance on it at least twice throughout the process. They have been trying to get this deemed complete since October and many comments have been about trees. At the same time, they submitted the tree ordinance was being devised and enacted. They applied under SB 330. They had a comment on their SB 330 application which says it is not complete, so they are trying to work on their completion and they submitted the second time and SB 330 is cleared of comments. At that moment, they feel they vested the new tree ordinance.

They have asked on multiple occasions, and while fees will be less, it is mostly because it is good tree management and it is for fire safety. There are so many good reasons to not plant three of the same species when taking out one tree. It is maybe something they can just come to an agreement with, but there is a real argument legally that they were truly vested and should be under the tree ordinance which would make these decisions a little bit easier and more streamlined for them. In the end, they would have a more firesafe and more resilient landscape.

With regards to the protection, they take that seriously especially around the area of the bio-retention swale, and they will definitely look into that and provide more details about how they can plan to protect those.

Chair LaBonge said other than starting the 180-day clock, he asked if there is another negative aspect of that.

Ms. Dutto said it has been six months since they have been trying to get this to the PC so she is not inclined to go backwards. To be honest, the questions that have come to the PC tonight about allowing tree replacements to be a different species, this was her trying to figure out how can she harness the wisdom of the new tree ordinance and still be charged, noting she was still okay with all the other things about the old tree ordinance. She still wants to use the high, medium and low canopy and do the right thing by tree management. So, she created a landscape plan that uses the new tree species and in the old tree ordinance it said, the Commissioner can allow species substitutions.

She highlighted that and they are already approved because they are included in the new tree ordinance. This is how she approached the landscaping doing the best they can, but they are being asked to do Zone Zero but being billed and asked to do dumb tree management based on an old tree ordinance. So, they just want clarity and it has been very difficult.

Chair LaBonge said Ms. Dutto sounds like someone who is conscientious about it and staff is working with her, so he thinks they can figure out something that is equitable for both. He is more concerned with the path. He lives within a half mile of downtown and he can walk it. But, when he saw the graphic he was perplexed because to him that would be a travesty if someone lived there. If someone walked down in the day and had to walk at night. He has zero curbs as well and on his street the speed limit is 25 mph which is ridiculous. He is on a flat road and not with a swale on one side where someone could fall into so he personally could be more lenient if the applicant could solve that part of the equation.

Ms. Dutto said the new tree ordinance would help her do that.

Vice Chair Deming said he likes what was presented, thinks it is the best one could hope for on that plot of land without going significantly denser. He thinks they are taking a difficult terrain and trying to make something workable with it. The design is open central space surrounded by housing and thinks it is a great approach to try and address the housing crisis still going on. In seeing the estimate of work for the sidewalk of $250,000 he asked if there is any rough estimate or the difference in compliance costs between the two different tree ordinances.

Ms. Dutto said she does not. She also said it is not as much about money as it is about the fact that the old tree ordinance is impossible to use, and the right thing to do is use the new tree ordinance.

Vice Chair Deming said it seemed like it would be normally allowed 14 units without any sort of density bonus. They are only trying to build 15 units with the one low-income unit. He asked why is the unit there.

Ms. Dutto said what it allows her to do by offering the very affordable unit which will be sold at a cost she cannot build it at which is wonderful. It also allows her to take the least restrictive of the zoning ordinances, so they are R-10 and Hillside Overlay which would allow for one house and she would still need to be before the PC. Or, she can take the General Plan which is 6 units per acre.

Vice Chair Deming said he was looking at the plans and footprints available and he asked why the other smaller unit is being included as opposed to something like the rest of the units being built.

Ms. Dutto said she thinks there is a real need for that size of unit. She has had many people interested in those units and it is her favorite unit. If she could she would put more of them in because people are very interested in that smaller unit. Also, the floor plan is the cutest one up there.

Vice Chair Deming said he noticed she had an excess availability for units to build and he asked why she would not build 18 units under the density bonus.

Ms. Dutto said she began the project trying to weave the neighborhood and it is just where it landed. It felt right at the time and much of it is just design.

Commissioner Di Giorgio thanked Ms. Dutto for the description of the pathway. He was curious as to whether that could have been thought of as a path with DG to give residents better access. He is not completely familiar with ADA laws but when it comes to the sidewalk portion, he asked if it could be something other than paved concrete such as Trex or a boardwalk as a way to get people off of the street.

Ms. Dutto asked and confirmed Commissioner Di Giorgio was suggesting this treatment for the sidewalk. She said there were very few standards published and it is doable now. She thinks she can work with Matt Luttropp and figure it out. There have been suggestions it could be something other than asphalt, but just does not know what the answer is yet because they are trying to gather information here.

Chair LaBonge asked if Ms. Dutto knows the owners to the west. He asked if there is a future plan or talk about connecting through.

Ms. Dutto said no, there is nothing. At one point, there was some discussion of a through road with developments, but the owner is not in the picture and she did not know who owns it.

Chair LaBonge opened the public comment period.

Nina Resnick said she is one of the 57 people who Ms. Dutto met with and she thanked her. She did not realize the project until she saw the story poles go up. She knows there were many comments about height and what it will look like, and she appreciates Ms. Dutto listening and the thoughtful plan put in place. She thinks everybody loves the idea of open space and community, so she is supportive of the project. She is a survivor of the Oak Hill non-sidewalk for 20 years and she completely understands the request is there for a sidewalk but she would say it does need to be balanced with the feeling of the neighborhood and the flow of that portion. She is right across the street from 1415 Oak Hill and how that looks coming out of her driveway and how the flow works is very important to her.

Chair LaBonge asked and confirmed Ms. Resnick walks to the downtown all the time, but people whiz by there all the time and it is more threatening versus the fact there is not a sidewalk. She is at 1060 Oak Hill so she literally will look at the first two units.

Commissioner Huisingh confirmed Ms. Resnick is on the east side of Oak Hill across from the project. If there was a sidewalk on the west side of Oak Hill just on edge of pavement and it took out many trees, he asked and confirmed Ms. Resnick would not like that at all. She said the way the project looks in the pictures and where the trees are and how it covers the retaining walls and how landscaping would be is very lovely versus putting in a sidewalk and having to take out the trees. She also noted the ridge path is a very steep hike past the crosses.

Patrick Segelke said he lives in Moraga right now, but is the owner of 1075 Oak Hill and looks forward to retiring there. Everything regarding being able to walk to the downtown is very true. When they had their young son, it was not comfortable. Oak Hill is very tight and he asked if the City is going to widen the road, put in a left turn, and there are 15 homes going in and 30 parking spaces in this tight little section. A sidewalk is possibly one solution, but personally he thinks more are needed.

He had moved to Moraga and they have sidewalks now, feels comfortable raising the family there but even 25 mph and a sidewalk is still too fast. He thinks the project will look great, but feels worse for his other neighbors because of the 43-foot height. They have a 1,700 square foot house on a 2,100 square foot lot. This is going straight up and they are all like that so those are his concerns. His biggest concern is walking up and down Oak Hill. It is a bumpy road, very, very tight, and he used to walk it with his dogs but once he had his son, it was no longer the same.

Dan Leanos, 1064 North Thompson Road, said he is west of Unit 4. He had received a letter that this project was going to happen and did not think much of it until he saw the story poles two weeks ago and then he had concerns. When talking to the planners, he does not know if the density bonus law qualifies because it states if there is a low-income person living in one of the two homes that were demolished on the property within the last 5 years, and the City did not see someone was living there but there was someone living there. So, he thinks it does not comply for the density bonus law.

Regarding conformance with the General Plan, the development should respect the architectural character of the neighborhood. He thinks it looks nice on paper, but it does not look like their neighborhood at all. The neighborhood is low density residential so the fact that the density bonus law probably is not applicable, he thinks the project must be a low-density development which is 3 parcels or 3 homes. Regarding view impacts, it states the hillside overlay shall be designed to conceal when viewed from below from publicly owned property. He is below this and from his property he is about 20 feet below where the retaining wall will be from the back of his property. From the front of his property, the story pole will be 80 feet high when he is coming home and coming into his front door. The structure will be massive with the house #4, so he asked for something to be done about that because it will block his morning sun and it just does not look very appealing to him from his angle.

Chair LaBonge asked if it is the house that is kiddy-corner to Unit 4, and Mr. Segelke said yes, stating he is down below. It is a two-story home, so from his driveway it looks like the Lafayette Park Hotel is being built right behind his house and not too far from his fence.

Commissioner Sturm asked if it would be okay if she went by Mr. Segelke's house and walked into the driveway, and Mr. Segelke confirmed.

Vice Chair Deming asked and confirmed Mr. Segelke did not speak with the developer at all and does not know the owner of the lot across from his house. Mr. Segelke said the property of the one acre bought the property and then sold it to a family. He thinks the owners have been there once in those 15 years.

Chair LaBonge asked if there is landscape maintenance or some sort of abatement on it, or he asked if it is just wild growth. Mr. Segelke said they pay someone to come in with a tractor and they must take all the weeds down before July. One other thing he is concerned about is Lot 4 slopes down into his property so when they get heavy rains like this past week, the water is pooling behind his house because he is on a slope and going under his house sometimes. Therefore, he is very concerned about the drainage plan, as well. The water from the hill comes right down into his backyard.

Chair LaBonge commented that this is part of the application and the City Engineer will look at that.

Jim Bava, 61 Oak Hill, said he wanted to provide a brief history of the property. The original owners left the property to a niece who subsequently sold it to Johnson Clark, a general contractor, who sold it to Ms. Dutto who bought the property. During that interim period, there were applications for an apartment and for assisted living, both of which were rejected by the City for various reasons, one being it was strongly objected to by residents of Oak Hill. The current project is far more egregious than the two others suggested years ago and it is just too much for the area.

The property has been parceled to three lots at one time so three homes could be built under the old rules without the density bonus. The extreme density is going to cause problems because his house is adjacent to the property. The only division is the driveway going up to where the new project will be. Also, in years past he remembers always hearing that Lafayette was going to be a semi-rural environment. This certainly does not lend itself to a semi-rural environment by any stretch of the imagination.

Traffic will be horrible on Oak Hill Road coming out because of the number of vehicles coming and going. Ms. Dutto said she is going to widen the access driveway up to the property which is now just a single car driveway to the top of the hill. He has lived in his home for 55+ years and has seen many changes. If she wants to widen the driveway, the increased vehicular traffic will be a problem because the road comes right underneath their bedroom. He hopes the donation of the hillside crosses which she donated to the City will not impact any decisions of the City. He also did not realize that there will only be one house for low-income. He therefore asked that the PC modify the project greatly from the original plan, as it does not fit with the surrounding area and homes, and it is way too large.

Robert Fellows said he lives up the hill a few houses from where the project will take place. He spoke with Ms. Dutto and his concern was the sidewalk and traffic light. But, he is confused as to whose responsibility it is because the road is 22 feet wide where the driveway exits and could be 40 feet with sidewalks. He has heard it is the owners who are responsible for implementing sidewalks and this will not happen on the east side because there are no projects underway and her property goes right up to the City street line. So, she would have to get an easement to provide a sidewalk. Somehow, he would hope there would be some coordination with the City and whatever financing is available to create a wider street with sidewalks which would go further to the east. This would require retaining walls on the east. This would put everything on City right-of-way and not requiring her to give a right-of-way easement.

There is also a traffic light some neighbors would like to see down at the Oak Hill and Deer Hill intersection. He heard there was a transit study but he is not able to find it. It put this as not an immediate priority but an eventual priority. Now the City has developments occurring there and other locations, it seems there is densification happen which would justify somebody coordinating an investment through some State, Federal or local funds which would create that 45-foot-wide street with sidewalks at least up to the private street if the development will be built. He asked if is a person who will coordinate that or he asked if the PC is only involved with approval of the project. He asked who would be the person people could talk to that would keep neighbors up to date on how that could be obtained.

Chair LaBonge said every plan that comes through will still go through the City Engineer as well as staff in terms of what is required. He cannot answer all questions about traffic lights and what is required. He suggested Mr. Fellows speak with staff who might direct him to the City Engineer.

Mr. Fellows asked how people will track this afterwards. He heard a warning in the materials that after this meeting, residents are responsible for tracking the project themselves.

Chair LaBonge replied that all information is available on the City's website and every meeting is noticed. He recommended speaking with the Planning staff to receive notifications. In less than 180 days, this will go through the process but he would talk with staff to ensure he is informed.

Oystein Mathisen, 1122 Hilltop Drive, said he lives up North Thompson and does not have any great problems with the project. There are many things he does not like and Ms. Dutto gave him an early previous with the plans. He is also part of the Happy Valley Improvement Association. There is a lot of talk about trees and walkways, all of which can be solved very easily. He has walked down to BART for 45 years and with lousy sidewalks, and he feels sorry for those already living on Oak Hill Road with no sidewalk. He is sure the developer can make a path going down Deer Hill Road without too much of a problem.

As far as trees, this can be resolved. But, the biggest problem he has is after seeing the story poles, now it reminds him about what they had in his neighborhood with a 34-foot house next to his house looking down on his neighbors and himself, and he sees the same thing here. Those houses are just too tall. He is sure Ms. Dutto would not want something like this next to her own house in her neighborhood. So, if the PC is feeling for the neighbors, he asked to suggest something smaller. He is very appreciative they are not going for whatever is allowed today of 6-story apartment buildings or whatever happen at BART.

Shireen Welling said she and her husband live at 1074 Oak Hill Road. They are in a shared driveway that is directly across from the proposed driveway for this new development. She thanked Ms. Cassidy for her presentation and Ms. Dutto for her willingness to discuss the project. Her concerns are primarily with the existing lacking infrastructure on Oak Hill Road. They are 27-year residents of their home and her biggest concern is Oak Hill Road itself. Where this driveway comes out and where their driveway meets Oak Hill Road is the narrowest point of Oak Hill Road. It is an extraordinarily narrow street and you can barely get two cars driving opposite on the street. One usually must stop and let the other go through. If 15 more homes are added to this area, the street will not be able to handle that level of traffic, as well as pedestrians. It is not wide enough so she was not sure the PC is the body to address this at this time or the City Engineer, but she thinks it does need to be addressed before anything else goes forward.

The second part of this with regard to the street is the issue with the sewer. The sewer line has broken twice in that particular area in the last 7 years. It has had to be fixed or patched in that area. Again, this is right as the driveway is supposed to come out. Her third concern is the water issue and issues regarding fire and Zone Zero. If there is a fire, there are very few fire hydrants on that section of the road, and finally they are trying to make this a pedestrian-friendly area and as it stands now, it is not. She does not feel comfortable walking up and down that street and never has because it is so narrow, dark, and the proximity where Deer Hill comes in. The 4-way stop is not adequate to deal with the current traffic, let alone added traffic.

Baron Vaught said he lives at 1089 Oak Hill Road with his wife and newborn son. They purchased their home 3 years ago, bought into what they see as a great community and neighborhood. There are no sidewalks which is less for the City to maintain and pay in taxes. He grew up in a place where trees uprooted sidewalks all the time. The roads are where they are. The choke-point on Oak Hill is about 2 lots up from where this site would be.

He hears everybody's concerns, but being in construction development himself, he knows how incredibly cost-prohibitive it would be to add any type of sidewalk along that section of road. Just uprooting the trees in order to be able to reenforce any type of extension out into that swale would be horrendous just to be able to maintain any cohesiveness in the wavy pavement there currently. Personally, he hears what neighbors say and they walk their son in a stroller all the time. He sees Robert and Nina and hears everybody's concerns, but they all bought into the neighborhood knowing what they were getting into. He has no problems walking on that side of the road and he just thinks this just needs to be considered.

As far as trees are concerned and the tree ordinance, many of the ordinances are going to be more in line with what is realistic. Residents have insurance issues and Ms. Dutto has been incredibly thoughtful. She could try and push something through that will be much more financially advantageous but she is being sensitive to the area. This also should be taken into consideration in regards to tree management. It is not just this property but the community uphill and fire danger.

Amanda Walter said she lives a mile from the site on Palo Alto Drive. She knows Ms. Dutto both professionally and personally. She has had a chance to look at the plan in advance of the meeting and is very excited about the pocket park community. She is also an urbanist and she thinks the downtown part of Lafayette really needs to be as dense as is comfortable. This is such a great, new type of missing middle community that Lafayette needs, but the State is in a housing crisis and the laws coming from the State are not just arbitrary. They are there because of the real need. If there are 18 units that are allowable, she would love to see 18 units on the site and more of those smaller ones which would be great. Also, no everybody has a two-parent household, so a single mom or dad with a child would be pretty appropriate. Lastly, it is downtown and is meant to be walkable. She thinks the sidewalk is very important and feels like this is such a huge amenity rich community, an asset to the types of houses, and it needs to be safe for people to walk.

Simon thanked staff and Ms. Dutto for their presentations, thinks the care and thoughtfulness of the developer's presentation spoke to him. He lives further up on Oak Hill Road with his wife and 18-month-old daughter. To Mr. Vaught's point, he definitely knew what he was getting into when he moved to Oak Hill Roak 6 months ago which is a street that requires work, has no lighting, but they have thoughtful neighbors and so they have made due.

He and his family walk to downtown Lafayette down Oak Hill Road every day. They also have a dog on a leash, as well. He is highly concerned that this stretch of road is already quite dangerous and to go from 30 households to 45 households creates much more traffic both from a foot traffic perspective as well as from vehicles. He thinks whether it is on the developer or whether the City can step in and help, he thinks that stretch of road needs to be considered for safety purposes. He asked for a clarification on the role of the PC. He believes previously it was stated that the PC was only able to request changes related to the sidewalk, but one of the presentations said that the City may require changes if they believe the development poses a public health or safety risk.

Max Heninger thank staff for their excellent presentation, said he is on the Board of Inclusive Lafayette that is a local organization in town formed in 2020. They are very supportive of building new housing. They think it is the greatest lever the City has to create a more equitable community. Lafayette is a high opportunity area and they feel strongly they need to be doing their part to help solve the housing crisis.

Their Board has met with the applicant and there are many things they like about this project. They concur with one of the earlier speaker that they wish it was a little bit denser. There are so few parcels that are immediately adjacent to BART which they think of it as a multi-billion regional infrastructure and he thinks the City needs to be thinking thoughtfully about how to build this as densely next to that infrastructure as possible, even if the neighborhood might be different based on historic neighborhood patterns.

They also are firm believers in the art of the possible and that the perfect project never exists. Too often, holding out for that means that nothing happens. In their view, this is a dramatic improvement to the status quo which would either be that the site continues to sit vacant or somewhere down the line two or three multi-million homes that are affordable to people making $700,000 or $800,000 in household income a year. So, with this project they would support the greatest amount of affordable units possible, but they are proposing one affordable unit. By building smaller units, it would allow for more moderate income or something slightly above that to be able to afford. One comment raised is the one about using this project as the catalyst for greater infrastructure improvements. They do not think that is a cost that should be passed onto this project. All too often in California, that is what ends up happening. Impact fees are already a major barrier to new development so they are not sure what the legal basis would be to add on a sidewalk to downtown. They also support the new tree ordinance being applied.

Caroline Dowling said she grew up at 1073 Oak Hill Road. Her parents bought the home as BART was getting developed. She walked to all schools, loves the area, and her parents gifted her the house. She is very scared about all of the traffic, especially when BART gets back into the swing of commuters, with everyone traveling on Deer Hill Road and Oak Hill road, noting the four-way stops get chaotic. She can appreciate the new housing and likes it better than an assisted living facility, but is scared about traffic. People do not stop and do not pay attention.

BREAK

Chair LaBonge called for a break at 9:39 p.m. and, thereafter, reconvened the regular meeting at 9:58 p.m.

Rebuttal – Applicant

Chris Burt, Cox Castle Nicholson, LLP, land use counsel for the applicant, said there was a commenter who questioned the applicability of the density bonus law. He brought a provision of a requirement for replacement units. Here, it was determined there were no low-income individuals that lived in either of the two units that would have triggered replacement requirements, but even if one of the units had a low-income individual, the one unit being provided by the project counts for purposes of the density bonus law. So, it entitles one to all the benefits of that law. So, even under the circumstance, the density bonus law still applies.

With respect to the tree ordinance, he wanted to go through the timeline. The applicant submitted an SB 330 preliminary application in conjunction with the formal City application. The SB 330 preliminary application is a State law-created statutory application that requires much less in terms of a completeness standard that a normal city application. It is a checklist that HCD provides as a standard form. It requires elevations, some general site plan details, whether there are wetlands around, etc.

The benefit of submitting an SB 330 application for an applicant is that when that application is complete. It has the effect of vesting all of the existing policies, development standards, and ordinances existing at the time. It was enacted with the intent to provide developers assurances that regulations would not change in the future. So, here the preliminary application was originally submitted and it was deemed incomplete in the first instance when it was submitted. It was resubmitted again and then finally determined to be complete by the City on January 31, 2025. At that point in time, it would have vested the existing policies, ordinances, and regulations. He believes the tree ordinance was enacted by the City Council at second reading on December 9, 2024 and it would have been in effect 30 days thereafter on January 9, 2025, so that was in effect at the time the City determined that the applicant had submitted the complete SB 330 preliminary application. So, the new tree ordinance is the one that was actually vested.

Commissioner Huisingh said he thinks the PC owes it to the public commenters that they acknowledge questions and they need to be directed to staff to address. He would like to go through what needs to be addressed.

Regarding what Mr. Burt said, Commissioner Huisingh said the PC members are not attorneys and he thinks City Attorney Subramanian needs to have a conversation with Mr. Burt and figure out which tree ordinance will be used. The PC can then go from there.

While the City Attorney is conferring with Mr. Burt, Commissioner Huisingh asked that she also confirm whether or not renters or people were living in the prior structure before it was demolished and whether density bonus law is applicable here. There were a number of comments about safety of the road, the width of the road, a traffic signal, high traffic, safety concerns, sewer and fire hydrants which have been addressed by the comments from the Sanitary District as well as the Fire Department. As far as the other comments about the road width, these need to be directed to the City Engineer and addressed. He knows there are certain warrants required to justify putting in a traffic signal. Certain things need to be met and they cannot just put one in because someone thinks there should be one there.

Commissioner Huisingh said Simon brought up a good point which related to the sidewalk being a request versus a requirement from a public safety standpoint. This harkens back to the one slide Ms. Cassidy displayed which he questioned are things that could override the density bonus law.

Chair LaBonge said the first two questions would be answered off-line so it is one relating to Simon's request about safety for the sidewalk as a request versus a requirement.

Mr. Wolff said some of these will require additional follow-up with the City Attorney and City Engineer, and staff can bring back information regarding them in the staff report for the next meeting published ahead of time.

Ms. Cassidy said starting with Chris Burt's comments, as far as the tree protection ordinance and how it applies based on SB 330 submittal timelines, staff had a conversation with the City Attorney this morning about this. She is of the opinion that SB 330 locks in or vests the regulations that are in place at the time of application submittal. It is the preliminary application for SB 330 which was submitted along with the rest of the application package back in October 2024 and this is when regulations would be locked in place. It would still be beneficial for the City Attorney to discuss this directly with Mr. Burt and come to an agreement, but this is what they were told in consultation.

Regarding the demolished units, there is a requirement under density bonus law that a unit that exists or did exist in the last five years did not have a low-income occupant for those five years. Staff saw that, requested an affidavit from the developer stating such, which has been submitted and signed. As Mr. Burt stated, there is a replacement requirement if such affordability existed. There is one unit that would be in question and one unit where affordable housing is proposed in the project, so it meets the replacement requirement.

Concerning road width and the section of Oak Hill, the City Engineer has looked at this, has confirmed with one of the commenters via email that there is no plan in Public Works to widen that section of Oak Hill Road or to ask the developer to fund such a widening or for the City to do it themselves. She spoke with Patrick Golier, the Transportation Program Manager for the City today and learned there is an intent to look for grant funding that would potentially apply for a new light at the Oak Hill and Deer Hill intersection. This is not a high priority of the Council but it is something they would like staff to pursue, which is on the Work Plan, but not something that would occur in the next year or so. It is also not something appropriate to ask the applicant of as it would be an expensive implementation item.

Regarding density bonus and is there an exception to the density bonus law based upon road safety. Typically, the project would have to cause the unsafe element in order for it to be something that the City would entertain being the reason for a denial. This is something the City would be required to prove and it would open the City to the possibility of legal action if the City were not able to prove it or, it might require legal action in order to prove it in court. So, it is something where the City would have to make a statement that the project is causing an unsafe condition in order for the City to find a way to a denial based upon that.

Commissioner Huisingh referred to the last item regarding density bonus law and road safety. He asked if this means it is a request and not a requirement unless the PC were to presume the City could prove that the project makes the road unsafe. Ms. Cassidy confirmed.

Commissioner Huisingh returned to the signal and said he does this work in his day job. Sometimes developers are conditioned for their proportionate share, and he asked if there was even a traffic study done.

Ms. Cassidy stated there is a transportation study done as part of the CEQA exemption requirement. Mr. Golier peer reviewed it and found it sufficient and the methodology sound. So, this has been reviewed and accepted as part of the CEQA exemption documentation.

Commissioner Huisingh asked that, in other words, there is not enough traffic generated by the project by 15 units that would constitute a proportionate contribution to a future signal.

Ms. Cassidy said she did not recall if that was the exact final finding of the study, but the study was done and she could return and provide an answer on this.

Commissioner Huisingh said if the City is searching for funds through a grant for a signal and there is a legitimate cost contribution generated by this project, it should be reviewed.

Ms. Cassidy said she is sure the study did not confirm such a contribution is required and Mr. Golier will look into this before the next meeting.

Commissioner Radonich referred to SB 330 and asked when the timeline for SB 330 start.

Ms. Cassidy stated the 180 days starts at completeness which she believes was in February, so it is August 18, 2025.

Commissioner Radonich asked if this site was considered a housing opportunity site in the final version of the Housing Element.

Ms. Cassidy said she did not believe so and said she looked at this recently.

Commissioner Di Giorgio asked what are the measurements for the traffic volume.

Ms. Cassidy said she was unsure, but they have someone from BBK available on the Zoom call if the Commission or staff would like to ask direct questions.

Mr. Wolff said staff can follow-up with the City Attorney and have an answers prepared for the next meeting rather than call upon the attorney. He thinks it is appropriate to bring it back with respect to findings that could override a state density bonus project regarding health and safety.

Commissioner Sturm said in terms of process she feels like there are larger items with information coming back. She asked if the plan was for this to go to the DRC next or a joint meeting.

Ms. Cassidy said the plan is for this to be heard by the PC. The subdivision application would need to be approved first before the Phase 1 HDP and grading permits could be considered. If both are approved, then a Phase 2 HDP application would need to be submitted by the applicant and go to the DRC and be approved all within the 180-day timeline, and the five-meeting limit.

Chair LaBonge noted there are only four meetings left, and Ms. Cassidy confirmed and said the PC can approve both the subdivision and the HDP at the same meeting, and the subdivision application must be approved first.

Commissioner Sturm referred back to the tree ordinance. She asked if the reason the City is keeping to the previous version because it is a legal issue. Her understanding is if they chose to revise it, they see benefits and the revised version. She asked if the City has the authority to allow them to do that or she asked if staff was trying to keep to the letter of the law as the City Attorney understands it.

Mr. Wolff said the latter is the intent that, based upon the timing of the submittal, the project is subject to the rules and regulations in effect at that time moving forward so there is consistency, predictability because the applicant is vested at that time. Staff will double-check with the City Attorney with respect to precisely when that time is—at application or deemed complete.

He said staff spoke to stand-alone applications that are not proposing development proposals which is clear. Withdrawing and resubmitting under the new ordinance is a clean and understandable action here. To have it change midstream with respect to regulations he spoke to, but withdrawal of the tree permit and resubmittal is part in parcel with the original application which does not reconcile. Staff spoke about doing this for the entirety of the application but there is a desire not to do that. So, staff can explore this further with the City Attorney as well.

Chair LaBonge brought back the discussion back to the PC and asked for comments.

Commissioner Radonich said she appreciates both staff's and the applicant's thoughtful approach and said there are a lot of moving pieces. She drove up to the site and the story poles are tall, but it is also a hillside, and Lafayette allows hillside development. One thing she would like to see is that she has concern that the ADU parking spaces may be eaten up by the primary unit occupant, so she would like to see something in the HOA guidelines that requires a space must be made for the ADUs. To Commissioner Huisingh's point about reducing off haul and try to balance more on site, this also goes to her point she will make for the roadway. She also lives on a narrow street where people park on both sides so it is awful, and she asked to minimize truck traffic on the street.

She does not know how this works, but if the neighbor's sewer easement was hers and her sewer pipe was under there she would be concerned that these activities could affect her pipe, so she hopes the property owner is working with the adjacent neighbor who owns that easement to ensure nothing happens. She appreciates the comment for the City Engineer to chime in on adequate fire hydrants. The Commission heard a comment from the neighbor to the northwest who was concerned about visual screening from his house, and she wondered if this is something the applicant is open to. She personally does not have sidewalks in her neighborhood and after going out to the site she disagrees and does not think a sidewalk should be in front of this project. It would cut into all of the trees and would require immense amount of retaining.

Commissioner Radonich stated there was some reference to the tree bond to ensure off site trees were protected. She was not sure this can also apply to on-site trees, but she appreciates the applicant's focus on the 100-year-old oak tree and would like for that to be maintained. One of the commenters made a comment that his bedroom window is near the driveway. She also noticed that the house backs up to the shape of the driveway. Hopefully, the widening of that driveway is happening more south versus closer to his yard. She asked if the applicant could provide extra screening or noise mitigation there.

Commissioner Di Giorgio said with the whole Section 3, she would encourage staff and the applicant discuss whether or not they can work out a deal to use the new tree ordinance. For example, on Item 3.D, he does not know about the bonds but he asked if this is normally used.

Ms. Cassidy said it is not used in every application, but it is a tool staff has used in the past.

Commissioner Di Giorgio said he likes the applicant's approach towards the use of the land and hopes if something can be made more efficient and better for the environment and the property he thinks the Commission should consider that. He was not in great favor of the sidewalk and hopes there is another solution for allowing safer pedestrian access. He is concerned about the view from 1064 North Thompson. He drove up the road part way to see from that direction, and the scale is noticeable. He asked if there was anything the applicant can do to soften that side would be helpful.

Regarding Zone Zero, he was not sure how the City would require the applicant to use it if it is not law, but he thinks the applicant could come back and provide thoughts on that and other fire measures. For example, the fencing near Units 4 through 7, he knows it is 10 feet but there are trees in between the house and fences. For example, the Santa Cruz Ironwoods are fire-resistant and that this does not cause undue fire danger.

Chair LaBonge asked if Ms. Cassidy could go through her questions presented in the beginning so as to make sure the Commission answers them.

Ms. Cassidy displayed them and said the first includes the sidewalk and responsiveness to the design guidelines which are both requests. The design guidelines not clearly met include impacts to neighbors' views and privacy, use of California native landscaping, and rooflines emphasizing horizontal lines. On the second page regarding trees, the question of whether the flexibility allowed for in the code should be applied to this application, specifically replacement species, size substitutions, and waiving in-lieu or, in this case, appraisal values for non-native species, as well as requiring additional studies on impacts to remaining trees versus just relying on whether impacts happen and mitigating afterwards. Finally, the bond was proposed originally by the landscape consultant for impacts to off-site trees where impacts are not allowed per the code. Finally, there is the Zone Zero landscaping question. There is landscaping proposed in the 5-foot radius around houses and the question is should the City request it be removed.

Commissioner Huisingh said he also has some concerns for the property owner and other owners that live on the northwest corner of the project which are the owners directly to the north of Units 4 and 5 and the Lenos's who is more to the west of Unit 4. There is a General Plan policy LU-1.3 which is that "The developer shall respect privacy of neighbors." Privacy in his mind is from the vantage point of windows on the second story looking down onto the neighbor. There have been projects in the past where condos, apartments, or tall homes look down into other peoples' backyards.

In this case, it is not a backyard but a side angle to their driveway/garage, but also looks down into living space or a kitchen area. He thinks privacy of the neighbors can be addressed through those windows and he was not sure how important those windows are on the north facing side of those two Units 4 and 5. He asked if there were different windows not at eye height that are up at the top of the sill that could let light in without being able to give occupants of the building a view down on those homes.

Commissioner Huisingh said there is another question regarding the vantage point of the neighbor looking back up at the structures, and this is compounded by the slope which the PC cannot do anything about. It is also compounded by the height of the building which they cannot do anything about, but one of the questions related to the pitch of the roof and flattening out the lines. He heard the applicant talk about attic space and the pitched roof to have some space, but he wondered if there is any way to lesson the impacts of those units. It might be just those two units and not all 15, but he wondered if there is a way to lower the ridgeline or flatten it out a little and create a more horizontal look for those two units because those neighbors are very much impacted.

One of the General Plan policies was noise and that is N-1.04 relative to indoor noise levels. A number of projects in the past that are close to Hwy 24 and BART are required certain kinds of window panes and insulation that protect the occupants. He asked if there is some noise study done with the window glazing or that they can say noise is being addressed because of proximity to BART.

On the path, he does not think it would be attractive to have a sidewalk right on the edge. He supports pedestrian connectivity but does not support a sidewalk that will take out trees and cause the applicant to have to build a lot of retaining walls, fill in the ditch, and do a lot of expensive work that will not be appealing. But, he likes the idea of a meandering path that can go in and out of the trees, and maybe it is not concrete but maybe AC, DG, and while it will not be ADA compliant, at least it is a pedestrian path that gets people from point A to point b. They are not walking on the narrow Oak Hill Road and it is not an eyesore.

One of the exhibits shows the street footprint in the subdivision. On a couple of the units, it showed grey poke outs on the east side of the loop, and they look like driveways but the staff report indicated it was all going to be common property for the whole project. So, it did not make sense to him. If it is a driveway, it should be called a driveway and it is part of the lot versus it is common space but not assigned to the unit so it cannot be both. He thinks this could cause issues with the HOA in the future. There are also "unassigned short-term guest parking." This will also be a problem because people will park there, it will not be assigned, and what is the definition of short-term and future HOA fights. He likes Commissioner Radonich's comments about the screening for the speaker so as people are driving in and out of the driveway the lights do not shine on the neighbor's windows. He asked to fence it, screen it, or landscaping.

Commissioner Sturm said she generally agrees with all comments. To reiterate, she liked the idea about breaking up the scale a bit with some horizontal elements for the northwest corner massing privacy issue with some shed roofs. She knows Ms. Cassidy had a question about potentially changing the roof type or create smaller massing. Her thought is that after seeing an array of types of designs in projects and there have been projects parallel to the slope and they have gone with a flatter roof. Sometimes it can work and sometimes it actually makes the project look more massive. In this case, in going off of what the architect said about the upper floor spaces using attic space, this leads her to believe that the slope is actually decreasing the mass. She was picturing angled ceilings inside. Also, for other projects the PC has seen, the more gables there are it blends into the hillside and then you are not looking at walls. So, she thinks design-wise, this is a good design to decrease the massing.

In terms of height, there are the two units that have the three-story appearance, but they are also like garden homes so they are likely narrower than other single-family homes of about 28 feet. So, even though there is the height, the mass will not feel so great. Maybe when this goes to the DRC, they could look at it. She personally likes the way they are a cohesive design with enough variation in the details and the materiality that just works very well. But, there are a couple of the taller houses which have a panel material so possibly the DRC will talk about more texture was added to those facades, this might help break it up a little bit.

Lastly, she thinks the pedestrian connection is really important. She likes the idea of thinking outside the box and doing something more like a landscape path maybe through the swale between the trees. She does not know if this would be helpful or desirable, but there are other projects where there is an easement so she does not know if something was created through there if it would be possible or a reason to do an easement for the neighborhood where they might be able to hop off the road there and use an innovative path.

Vice Chair Deming reiterated he supports this, believes what has been designed is a good way forward, and as a relatively recent mover to the area, coming from the outside he knows how hard it is to try to find a house here, much less an affordable one. He agrees with all other comments provided, especially with regard to sloping of the roof.

Where he would respectfully disagree as a young father he echoed comments heard earlier with a stroller, walking a family, and thinking ahead when the child will be off on his own and riding a bike. When his family moved into their home they had just finished the asphalt sidewalks with a little hub they spoke about earlier and having not thought of it.

Now that they have asphalt sidewalks and the hub, it is an amazing change of just the surety of safety, where cars will be and not be, and where bikes can be ridden. To the extent it can be incorporated somehow, this would be the end link of the chain of anything that could be done on Oak Hill Road for pedestrian access. Without it, they are still on that same roadway until getting to BART. Obviously, BART and downtown access will be the most important piece. Otherwise, he thinks it is a fantastic project and likes what the applicant is trying to do. He would also note that there are two fire hydrants being added.

Chair LaBonge said he has re-thought the sidewalk and does not think putting a sidewalk in is a good idea because everyone above this, they have already lived there and they bought knowing what they are getting, but he does think the development needs to have a walkable path to the rest of Lafayette. He is an engineer but not well trained. When looking at the slope and Units 11 and 12, he finally figured out where that path is which is right behind Unit 11. Somehow his desire would be to figure out how to slightly re-design this and make a path that can pop off of Loop B between Units 11 and 12 because then they do not have to hit as much grade, and do the meandering path and get down to Oak Hill. Whether they want to let other people up the hill pass through, he wants this development to be self-contained for access.

Regarding trees, he hopes they can figure out how to get to the new tree ordinance. Regarding Zone Zero, because they are no longer in high fire severity, he will not push on that. On the design guidelines, everyone else hit on those. He does not know how much it costs to put story poles up, but he wished a 3-D model could be provided and be able to put a point at someone's house and say go up, take the trees out that will be gone and see what it really looks like, and ask the developer to figure it out with screening. He hopes, knowing that Ms. Dutto is a good neighbor and grew up here, she will be mindful of that.

Commissioner Radonich said she does not know if this is at all possible, but in trying to be creative with the path, she likes the idea of coming off site 11 or 12. Maybe a staircase could work but she does not know how much extra grading or support that takes, but it is a though.

Commissioner Huisingh said he did not think the Commission addressed species in their final comments from the second slide. The City has a new tree ordinance because they were improving on the old one. If the applicant put species in the plant palette from the new tree ordinance and the PC has discretion to approve different species from the old one to get mitigation done. So, however the two tree ordinances can be merged or the PC approves species being proposed, he was supportive of that.

Commissioner Di Giorgio asked if the applicant could make the pedestrian access end up on Deer Hill Road rather than Oak Hill Road, that might solve a lot of potential conflicts with traffic. This would mean they would need an easement going through the Parcel D, but it is something the applicant might consider.

Ms. Cassidy said no action is needed, but the PC can continue the meeting to a date certain and check with the applicant on timing to revise their plans.

Mr. Wolff said this is the second meeting in March and future meetings are April 7th and the 21st and meetings in May are the 5th and 19th. If they are just looking as April 21st, things would need to be wrapped up by the applicant by Friday, April 11th and the staff report would need to be published on April 16th. If it were continued to April 21st if, for some reason the applicant is not ready, this could be continued to a future date. If the PC is not hearing it on that night, it will not count towards the five meetings. But, the subsequent meeting where the PC is discussing it in earnest will count towards a meeting.

Commissioner Radonich asked why would the Commission continue the hearing.

Mr. Wolff said if the applicant was certain they could turn around the materials and the PC commit to a continuance date of May 5th, for example, the benefit is for certainty for members of the public who are interested in attending and it is more efficient for the applicant and staff in terms of doing the entire round of public notification again.

Chair LaBonge asked and confirmed that the PC could pick May 5th and if not ready, they could continue it on the 5th without re-noticing it. Ms. Dutto provided brief comments from the audience.

Ms. Cassidy said Commissioner Radonich may have posed a different question. She said this was noticed as a new public hearing and the Commission can direct staff to bring a recommendation for approval or denial under the existing notice. They do not need to re-notice because the recommendation changes. So, continuing this public hearing does not mean the next meeting is restricted to having no action. Staff can be directed to bring a recommendation or the staff can volunteer a recommendation for action at the next meeting.

Commissioner Huisingh asked and confirmed this does not have to go to the Council in this current approval process. If a density bonus incentive or concession is named that under the City's code triggers Council review, then yes it would go to the Council, but that would be the only scenario where the SB 330 meeting limitation would require Council review as well as the PC meeting and DRC HDP Phase 2.

Commissioner Huisingh asked if approval of an item that was via a public hearing be done on the Consent Calendar, and Ms. Cassidy said this would still count as a meeting on the agenda, even if there is no discussion.

Commissioner Huisingh said if the staff report addresses the Commission's concerns the item can be approved on Consent and they do not have to go through a 3-hour process again. Ms. Cassidy said it could limit the amount of time spent on it, but it would still count as one of the five meetings.

Commissioner Radonich said this is what she was getting at. The way she is reading the agenda tonight is that the recommendation is to provide feedback to the applicant on the project which was done. No formal action is proposed at this meeting. So, either way, she asked whether this would need to return to the PC either on Consent or a continued public hearing.

Mr. Wolff said it would either come back to the PC as a continued public hearing from this evening to a future date certain or it would come back as a new public hearing if the Commission chooses no date whatsoever and continues it to a future date uncertain. So, staff would need to prepare all public notification as if it were a brand-new application which they can do.

Commissioner Radonich said then it seems like a continued public hearing with a set date that they know is beneficial to the applicant and the City, giving the applicant enough time. If still not enough time, it can be pushed to a future date and it does not count as another meeting.

Commissioner Huisingh moved to continue TR9707, HDP27-24, GR16-24, TP48-24 Oak Hill Place LLC to May 5, 2025. Commissioner Radonich seconded the motion, which carried unanimously by the following vote: 6-0-1 (Ayes: Deming, Di Giorgio, Huisingh, Radonich, Sturm, and LaBonge; Noes: None; Absent: Mason).

OTHER BUSINESS:

a. ARC Volunteer: Virtual meeting for Friday, March 28, 2025, at 9:30 a.m.

Vice Chair Deming volunteered to serve as ARC volunteer on March 28, 2025.

COMMISSIONERS' REPORTS: Commissioner Di Giorgio gave a shout out to the Planning team for having put together the documentation and extensive work on the item.

PLANNING DIRECTOR'S REPORT: None.

ADJOURNMENT: The meeting was adjourned at 10:49 p.m.

Respectfully submitted,

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Lisa Harper, Minute Taker